Exhibit 1: Second Declaration of Giancarlo Guzman (corrected)

SECOND DECLARATION OF GIANCARLO GUZMAN

- 1. I am an Investigator in the Legal Department at the American Civil Liberties Union Fund (ACLU) of Michigan. I am also an active member of the National Association of Legal Investigators (NALI).
- 2. I earned my Bachelor's Degree from the University of Michigan, Ann Arbor, and my Master's Degree in Public Administration from the University of Michigan, Dearborn.
- 3. I have worked at the ACLU of Michigan since 2015 and have served as the legal department's in-house investigator for over eight years. I previously provided a declaration in this case about a survey I conducted to assess how consistently law enforcement agencies interpreted various requirements of Michigan's Sex Offenders Registration Act (SORA). *See* ECF No. 123-23.
- 4. Because I routinely conduct investigations on behalf of the ACLU of Michigan, the litigation team in *Does III* asked me to provide information about the tools and databases one can use to find information about a person's criminal history, including any past sex offense convictions.
- 5. I use investigative best practices to gather information about potential plaintiffs, witnesses, and other people as relevant to the ACLU's work. To ensure that I have a full sense of a person's background, these investigations can include

background checks to determine a person's criminal history, including convictions for sex offenses.

- 6. Because there are other sources of information which provide more comprehensive criminal history information, I almost never use the sex offender registry (SOR) when trying to determine if someone has a criminal history.
- 7. The tools I use include free or low-cost databases that are broadly available to the public. These tools can provide information not just about past convictions, but also about arrests and charges, as well as other information about a person's past conduct that might be relevant to someone who is looking for information about, say, a person's suitability as a babysitter.
- 8. As most internet users know, they can go to platforms like Google, DuckDuckGo, Instagram, Facebook, and LinkedIn and enter the name of a person they are looking for. These free internet searches provide information about a person's background. If the person has prior convictions, whether for a sex crime or other serious crime, that information may be included in search results through news articles about the offense or court records. In addition, these free or low-cost searches can provide address information about where a person lives or works.
- 9. There are also two "background check" resources created and maintained by the state, namely Michigan's Offender Tracking Information System

- (OTIS) (https://mdocweb.state.mi.us/otis2/otis2.html), and Michigan's Internet Criminal History Access Tool (ICHAT) (https://apps.michigan.gov/).
- 10. In order to show what information is available on OTIS and ICHAT, as compared to the SOR website, I have attached—for the same person—redacted versions of the search results on the registry (Exhibit A), OTIS (Exhibit B), and ICHAT (Exhibit C). I also have attached the free search results for the same person on White Pages (Exhibit E).
- 11. OTIS is a free site that allows members of the public to access information about people who are currently incarcerated in the Michigan Department of Corrections (MDOC), are on parole or probation, or have been discharged off custody (whether from prison, parole, or probation) within the last three years. OTIS uses the following designations for those who are listed: "active offenders, prisoners, parolees, probationers, discharged, parole absconders, or probation absconders." This can be seen in the screenshot below.



- 12. Members of the public can conduct a search on OTIS using just a person's last name, their MDOC number, or even by describing known scars, marks, or tattoos. OTIS includes a current photo, which allows the viewer to see what the person looks like. It also provides the person's height, weight, eye color, marks/scars/tattoos, any aliases used, and how long the person will be under MDOC supervision. *See* Ex. B.
- 13. OTIS also lists Michigan records of the person's current and past prison sentences, including the exact statutory offense, where and when it was committed, the sentencing date and the sentence, and the discharge date, if the person was discharged. *Id.* Unlike the registry, which only lists sexual convictions, OTIS includes convictions for all kinds of offenses. *Id.*
- 14. For people who are on probation or parole, OTIS lists their supervision conditions. For probationers and parolees in Michigan, OTIS provides the

geographic area to which the person is assigned, and a clickable link with contact information for the supervising office. A member of the public who has questions or concerns can thus reach out to the relevant probation or parole office. *Id*.

- 15. The other very useful tool to find someone's Michigan criminal history is ICHAT (Internet Criminal History Access Tool). An ICHAT search costs \$10. The state also provides free ICHAT searches for nonprofit and governmental organizations. *See* Exhibit. D (ICHAT Frequently Asked Questions). In addition, members of the public who cannot afford the \$10 fee and want to conduct a search for free can contact the Record Resource Section/Freedom of Information Unit at the Michigan State Police (MSP). *Id*.
- 16. The criminal history record generated by ICHAT provides a comprehensive overview of a person's Michigan criminal history. It includes a chronological list of cases for which a person was fingerprinted and provides case information broken down by the stage of proceedings: arrest, charge, and judicial outcome. *See* Ex. C.
- 17. The "arrest segment" provides the date, arresting police department, and all alleged offenses. It includes both arrests that did, and did not, result in a conviction. The "charge segment" provides the date, prosecuting agency, and

¹ ICHAT is comprised of information from courts, prosecutors, prisons, and law enforcement officers across Michigan. *See* Ex. D.

charges. The "judicial segment" provides the date, court, charges, disposition, and sentence. *Id*.

- 18. ICHAT also gives the person's race, height, weight, eye color, and age, as well as scars/marks/tattoos and "additional identifiers and comments." *Id*.
- 19. In addition to OTIS and ICHAT, a host of private vendors provide online information about people's backgrounds, with search results that cover all 50 states. These databases are broadly available to the public for free or at a low cost, and they include a wide variety of search options. For example, the vendor Intelius, which is available at low cost to users, has both a People Search function and an Address Lookup function. The People Search includes unlimited personal and address reports, as well as criminal, traffic, and court records. The Address Lookup includes neighborhood-level information, such as crime statistics and who lives in the neighborhood. Intelius currently provides a seven-day trial of the Address Lookup for about a dollar.
- 20. Another private vendor, the White Pages, generates extensive information in both their free and low-cost databases. Using the White Pages' People Search feature, any member of the public can look someone up using their first and last name and either their zip code, city, or state. The free version of the White Pages then generates a list of people with that name, showing their name and city, their age range, cities with which they have been affiliated, addresses, and

employment information. See Exhibit E (White Pages Search Results). Users can

also pay to generate background reports that provide more information, including

current and past contact and address information, as well as criminal and other

public records for jurisdictions across the country. The current charge is about

\$12 per report.

CONCLUSION

21. There are numerous free and low-cost tools aside from Michigan's SOR

that allow members of the public to learn about a person's background, including

information about whether someone has committed crimes such as sex offenses.

I, Giancarlo Guzman, certify under penalty of perjury that the following statement

is true and correct pursuant to 28 U.S.C. § 1746.

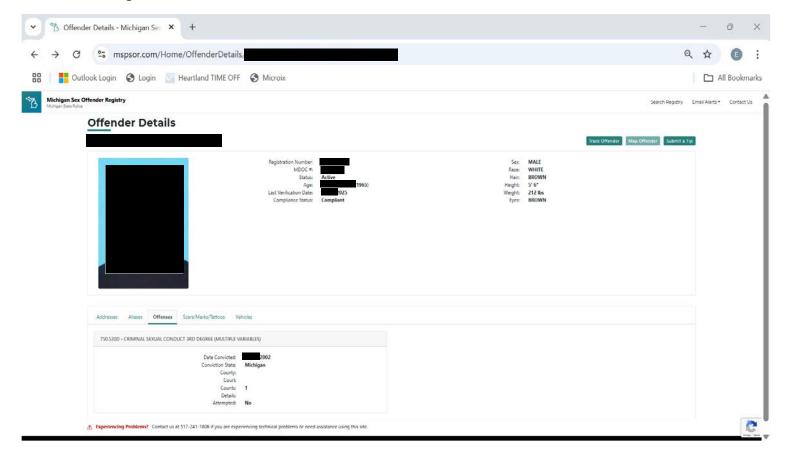
Giancarlo Guzman

Dated: May 5, 2025

7

Exhibit A: Michigan Sex Offender Registry Search Results (Redacted)

Michigan SOR - Offenses view



Address view

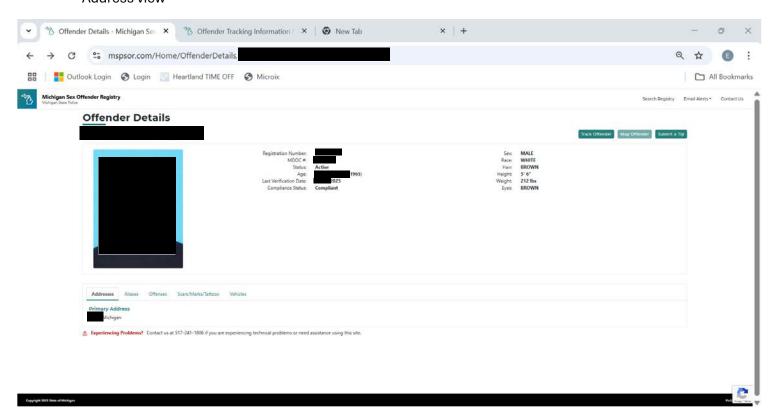


Exhibit B:

Michigan Offender Tracking Information System Results (Redacted)

MDOC's Most Wanted | Glossary | Disclaimer |

BIOGRAPHICAL INFORMATION

Contact MDOC | OTIS Help |



MDOC Number: SID Number: Name: Racial Identification: White Gender: Male Hair: Brown Eyes: **Brown** Height: 5' 6" Weight: 210 lbs. Date of Birth: /1965

Image Date: /2024

MDOC STATUS

Current Status:

Probationer

Assigned Location:

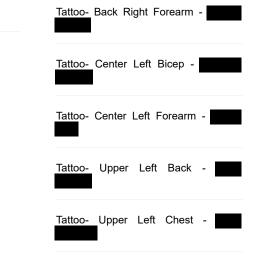
/Probation

Security Level:

Supervision Begin Date: 2024

Supervision Discharge Date: /2026

MARKS, SCARS & TATTOOS ALIASES



PRISON SENTENCES

ACTIVE

None

INACTIVE

Sentence 1

Offense:

Criminal Sexual Conduct, 3rd Deg (Multiple Variables)

Minimum Sentence:

2 years 0 months 0 days

MCL#:

750.520D

Maximum Sentence:

15 years 0 months

Court File#:

Date of Offense:

/1998

County:

Date of Sentence: /2002

Conviction Type:

Plea

Discharge Date:

/2015

Discharge Reason: Offender Discharge

PROBATION SENTENCES

ACTIVE

Sentence 1

Offense:

Assault with Dangerous Weapon (Felonious Assault)

Minimum Sentence:

MCL#:

750.82

Maximum Sentence: 2 years 0 months

Court File#:

Date of Offense:

/2023

County:

Date of Sentence: /2024

Conviction Type: Nolo Contendere

INACTIVE

None

SUPERVISION CONDITIONS

01 - No violat@രുട്ടെമു. മിൻസ് പ്രീഡ 209-MAG-CI	ECF No. 190, PageID.9475	Filed 05/06/25	Page 14 of 28
02 - Not leave state without permission			
02.0 - Not use/possess alcohol or intoxicants			
02.1 - Alcohol testing			
02.2 - Drug testing			
02.4 - Not use or have any controlled substances or drug i	tems		
03 - Monthly reporting			
03.0 - Take medicine per physician			
03.3 - You must complete mental health, DomViol/Batterer			
03.4 - Must attend programs required			
03.5 - Disclose information			
04 - Notify of change of residence			
04.0 - You must not enter (City/County/Other Location) w/o	0		
04.5 - No contact or be 500' away from their residence			
04.18 - Behavior			
04.20 - Not own or possess weapons			
08.0 - Serve jail time as described			
08.2 - Pay a Crime Victim's Assessment			
08.18 - State Costs			

Michigan.gov Home | MDOC Home | Escapee/Absconder Tips | State Web Sites Accessibility Policy | Policies

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Exhibit C:

Michigan Internet Criminal History Access Tool (ICHAT) Results (Redacted)





Information Provided

Date of Birth

Name

1965

Gender Race White Reason

: \$0.00 Amount Paid

Order Date 5/1/2025 2:19:32 PM

Miscellaneous No :

Based on the information provided, the following is a result of a search of the Michigan State Police criminal history files as of 5/1/2025 2:19:32 PM:

Important: Information Contained in this Record

THE RECORD RESULT PROVIDED IS BASED ON A DATA MATCH AS EXPLAINED ON THE ICHAT HOME PAGE. THE ICHAT SYSTEM HAS LIMITATIONS THAT MAY CAUSE FALSE POSITIVES OR FALSE NEGATIVES. PLEASE REVIEW THE RESULTS CAREFULLY AND DO NOT TAKE ADVERSE ACTION BASED SOLELY ON THIS RECORD. IF YOU CANNOT DETERMINE THESE RESULTS DO NOT BELONG TO THIS INDIVIDUAL, AND THE INDIVIDUAL IS DISPUTING THE RECORD, PLEASE PROVIDE THAT INDIVIDUAL WITH A COPY OF THIS REPORT AND OFFER THAT INDIVIDUAL THE OPPORTUNITY TO PERFORM A RECORD CHALLENGE BY SUBMITTING FINGERPRINTS. THE PROCEDURES ARE EXPLAINED AT THE BOTTOM OF THIS PAGE. SINCE ARREST CONVICTIONS, OR CRIMINAL RECORD DELETIONS MAY OCCUR AT ANY TIME, DO NOT USE THIS INFORMATION FOR FUTURE CLEARANCES.

DATE PRINTED:5/1/2025 Page 1 MICHIGAN CRIMINAL HISTORY RECORD INFORMATION MEETING DISSEMINATION CRITERIA AS OF 05/01/2025 NAM: SID: DOB: RAC: W SEX: M **HGT: 506** WGT: 210 HAI: WHI EYE: BRO POB: MI CIZ: TAT L ARM SCAR/MARK/TATTOO: ADDITIONAL IDENTIFIERS AND COMMENTS: NAM: CRIMINAL TRACKING NUMBER: INCIDENT DATE: 2002 TCN/OCA: NAME USED: : CHARGE SEGMENT : JUDICIAL SEGMENT ARREST SEGMENT --- : ------ : --: DATE: 2002 : DATE: 2002 : COUNTY : CIRCUIT COUNTY : PROSECUTING ATTORNEY : CRIMINAL DIV POLICE CIRCUIT COURT DEPARTMENT OCA: : FELONY 1 CNT OF 1100 CRIMINAL SEXUAL CONDUCT 1ST DEGREE (PERSON UNDER 13) : CNT-3 MCL 750.520D FELONY FELONY SEXUAL ASSAULT DISP: CHGD BY PROSECUTOR : CRIMINAL SEXUAL CONDUCT - THIRD DEGREE (MULTIPLE VARIABLES) : DISP: FOUND GUILTY : SENT/REMARKS: : CONFINEMENT 02YR 00MTH 000DAY TO 15YR COMTH OOODAY PROB: OOYR COMTH COODAY Ŧ CRIMINAL TRACKING NUMBER: INCIDENT DATE: TCN/OCA: NAME USED: : CHARGE SEGMENT ARREST SEGMENT : JUDICIAL SEGMENT : DATE: DATE: 2023 2023 : DATE: 2024 1 POLICE CIRCUIT COURT COUNTY 12 : PROSECUTING ATTORNEY : CFN: DEPARTMENT OCA: : 1 CNT MCL 750.82 1 CNT OF 1300 : FELONY : CNT-1 MCL 750.82 ASSAULT WITH : FELONY FELONY ASSAULT EXCLUDING DANGEROUS WEAPON ASSAULT WITH SEXUAL DANGEROUS WEAPON DISP: CHGD BY PROSECUTOR : : DISP: PLED NOLO CONTD : SENT/REMARKS: : F/C/R 000198 JAIL : PROB 002Y DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION (CHRI) VIA THE INTERNET

DISSEMINATION OF CRIMINAL HISTORY RECORD INFORMATION (CHRI) VIA THE INTERNET CRIMINAL HISTORY ACCESS TOOL IS IN COMPLIANCE WITH MICHIGAN COMPILED LAW (MCL) 28.2422, WHICH STATES THAT ALL CHRI THAT IS SUPPORTED BY BIOMETRIC DATA

Case 2:22-cv-10209-MAG-CI ECF No. 190, PageID.9479 Filed 05/06/25 Page 18 of 28

SHALL BE DISSEMINATED IN RESPONSE TO A NAME-BASED SEARCH OF THE CHRI DATABASE, UNLESS THE CHRI IS NONPUBLIC (AS DEFINED BY MCL 769.162) OR OTHERWISE PROHIBITED BY LAW FROM BEING DISSEMINATED. PURPOSE CODE USED NOT FORWARDED TO NCIC III END MSG. </MESSAGEDATA>





PROCEDURES FOR CORRECTING A RECORD

THE STEPS FOR CORRECTING A MISTAKEN OR INACCURATE RECORD ARE AS FOLLOWS:

1.WRONG PERSON - RECORDS THAT DO NOT BELONG TO THE INDIVIDUAL WHOSE NAME HAS BEEN SEARCHED

- IF THE INDIVIDUAL BELIEVES THAT THE RECORD DOES NOT BELONG TO HIM OR HER, THE INDIVIDUAL SHOULD GO TO THE NEAREST LAW ENFORCEMENT AGENCY AND REQUEST TO BE FINGERPRINTED ON A STATE APPLICANT FINGERPRINT CARD FOR THE PURPOSES OF "RECORD CHALLENGE"; CALL AHEAD TO VERIFY FEES AND/OR SERVICE HOURS. THERE IS NO CHARGE FOR SUCH FINGERPRINTING IF IT IS DONE AT A MICHIGAN STATE POLICE POST.
- THIS CARD SHOULD BE MAILED TO THE CRIMINAL JUSTICE INFORMATION CENTER
 WITH A COPY OF THIS RECORD AND A LETTER REQUESTING THE CRIMINAL JUSTICE
 INFORMATION CENTER TO VERIFY THAT THE ENCLOSED CRIMINAL RECORD DOES NOT
 BELONG TO HIM/HER. THERE IS NO FEE. THE ADDRESS IS:

MICHIGAN STATE POLICE -- CJIC ATTN: RECORD CHALLENGE P.O.BOX 30634 LANSING, MI 48909

- 2.RIGHT PERSON INACCURATE, INCOMPLETE, OR OUT-OF-DATE INFORMATION
- SOMETIMES RECORDS CONTAIN REPORTING ERRORS. FOR EXAMPLE, THE NATURE OR
 DATE OF THE CONVICTION WAS REPORTED INCORRECTLY, OR THE RECORD CONTAINS A
 CONVICTION THAT SHOULD HAVE BEEN REMOVED FROM THE RECORD.
- IN SUCH CASES THE INDIVIDUAL SHOULD OBTAIN CERTIFIED COPIES OF THE COURT
 JUDGEMENT OR OTHER DOCUMENTS WHICH SHOW THAT THE INFORMATION CONTAINED ON
 THE CRIMINAL RECORD IS INCORRECT. IF THE PROOF PROVIDED IS SATISFACTORY,
 THE MICHIGAN STATE POLICE WILL MODIFY THE RECORD ACCORDINGLY.
 YOU MAY SEND THE DOCUMENTS TO:

MICHIGAN STATE POLICE -- CJIC ATTN: CRIMINAL HISTORY RECORD CORRECTION P.O.BOX 30634 LANSING, MI 48909

Exhibit D:

Michigan Internet Criminal History Access Tool (ICHAT) Frequently Asked Questions MICHIGAN STATE POLICE CJIC SERVICES PUBLIC INFORMATION → CONTACT



BROUGHT TO YOU BY

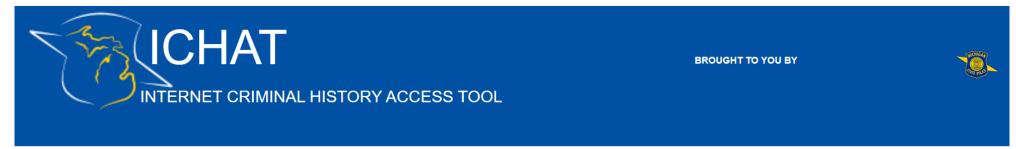


Frequently Asked Questions

► What is a Criminal History Record?

The criminal history record is compiled in accordance with Michigan Compiled Law 28.241. - 28.246. The record includes personal descriptors regarding the person and information on felony and misdemeanor arrests, charges and convictions. The record is compiled from information provided by Michigan law enforcement, prosecutors, courts and prisons. Michigan law enforcement agencies are required to provide fingerprints and arrest information when a person is charged with an offense punishable by over 93 days, which includes all felony and the serious misdemeanor offenses.

Michigan.gov MICHIGAN STATE POLICE CJIC SERVICES PUBLIC INFORMATION → CONTACT



Frequently Asked Questions

- ► What is a Criminal History Record?
- ▶ What if I know there is a record but I got a "no record" response or I received a record for which I need additional information regarding the case?
- ▶ What does a criminal history record response tell me?
- ▶ I am non profit, why do I go to the shopping chart?

The ICHAT system is programmed so that all user requests go through the shopping cart, whether the request is for the general public, government agencies, non-profit charitable organizations, or for-profit companies. Non-profit charitable organizations and government agencies registered with an agency code are not charged for their requested searches of employees and volunteers.

MICHIGAN STATE POLICE CJIC SERVICES PUBLIC INFORMATION - CONTACT

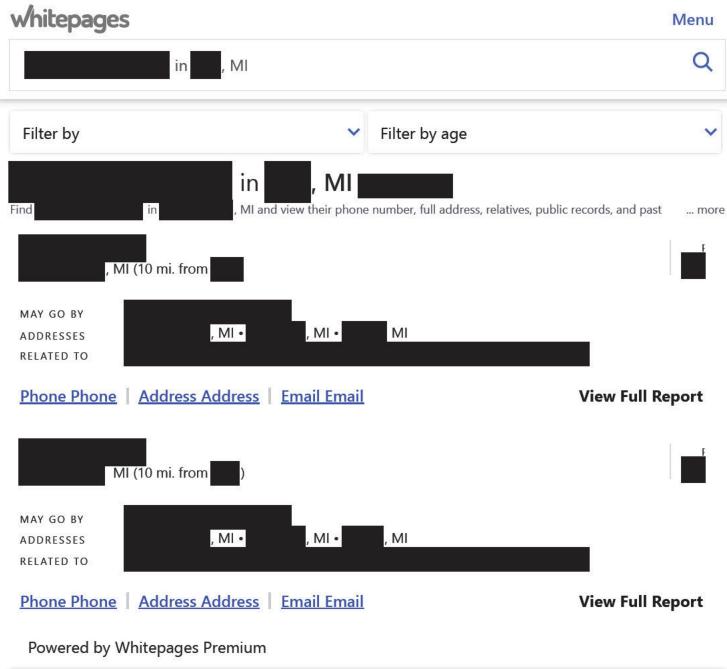


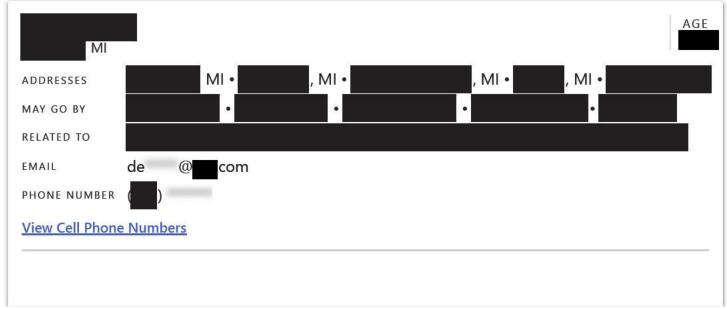
Frequently Asked Questions

- ► What is a Criminal History Record?
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- ► What does a criminal history record response tell me?
- ▶ I am non profit, why do I go to the shopping chart?
- ▶ The record says "warrant requested". Is there a warrant for this person's arrest?
- ▶ What do I do if there is only an arrest and all chargers were dropped?
- ▶ What information is needed to perform a search?
- ▶ What type of information will I get from a name search?
- ▶ What can be done if the person claims the record is incorrect?
- ▶ What do I do if the person claims the record does not pertain to them?
- ► Can a name search result in a response that is not the person I am checking?
- ► What will the response tell me about the name searched?
- ▶ What type of payment is accepted for ICHAT?

At this time only three main credit or debit cards are accepted. Those are Visa, MasterCard, and Discover. If you don't have one of those types of cards or are unable to pay the \$10 per ICHAT search, you can reach out to our Record Resource Section/ Freedom of Information Unit at MSPRecords@Michigan.gov.

Exhibit E: White Pages Search Results (Redacted)

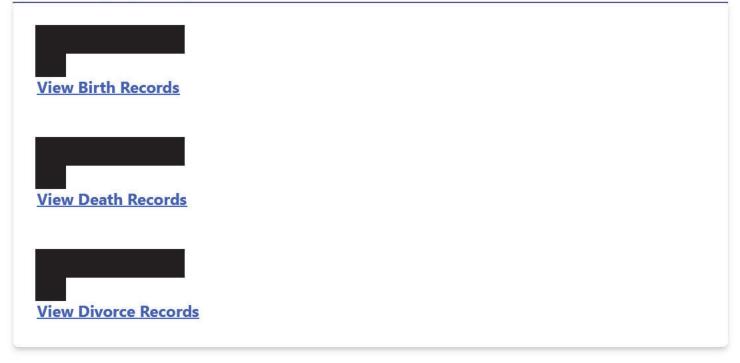






Birth, Death, and Divorce Records for

Sponsored by MyHeritage.com



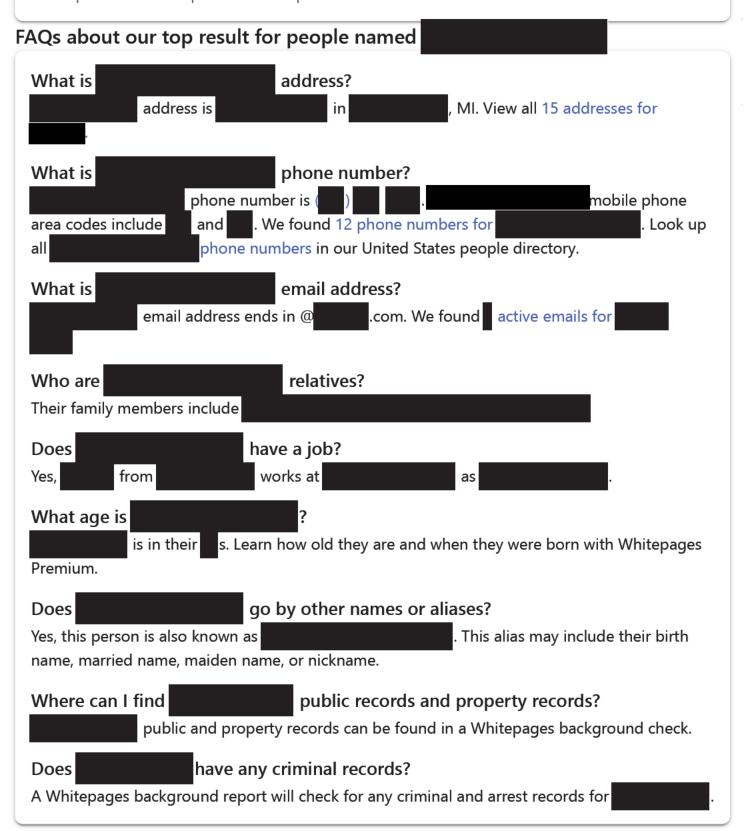
Find contact information for

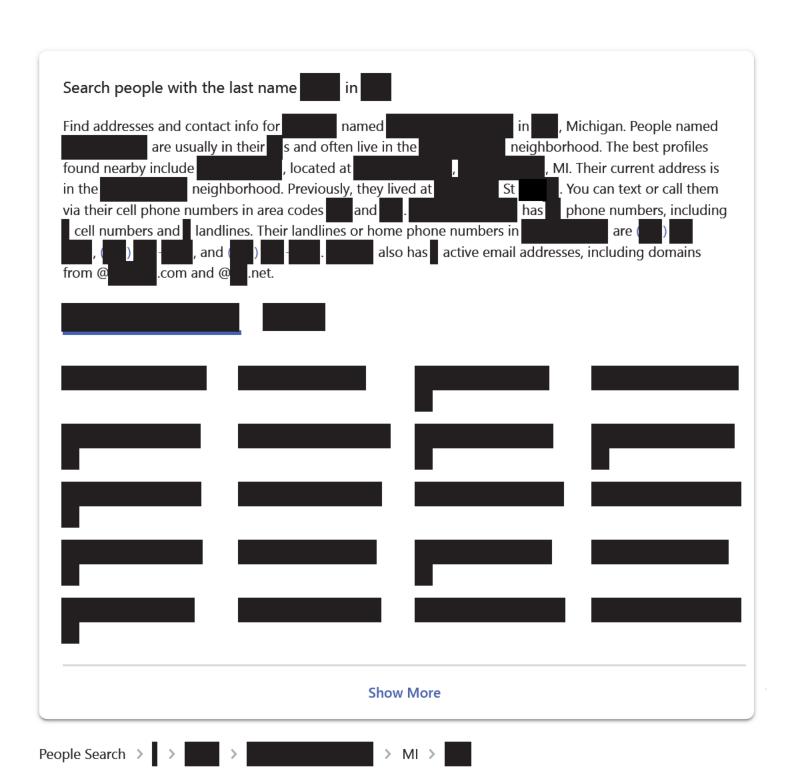
PREMIUM



View Full Report

Phone | Current Address | Public Records | Criminal Records





https://www.whitepages.com/name/